

**Chapter 6.26****PROHIBITION AGAINST AIDS DISCRIMINATION****Sections:**

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**Section 6.26.010 Definitions.**

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section.

"AIDS" and "Acquired Immune Deficiency Syndrome" shall mean the disease complex which occurs when an important part of the human immune system is weakened or destroyed by the action of a virus known as HIV or HTLV-III. Signs and symptoms of this disease complex are manifested in the afflicted person by any one of certain bacterial, viral, parasitic or fungal illnesses of a chronic nature or by certain rare forms of cancer or by HIV wasting syndrome.

"Business establishment" shall mean any entity, however organized, which furnishes goods or services to the general public. An otherwise qualifying establishment which has membership requirements is considered to furnish services to the general public if its membership requirements consist only of payment of fees or consist of requirements under which a substantial portion of the residents of the City of Riverside could qualify.

"Condition related thereto" shall mean any AIDS-related condition (ARC) and shall include any perception that a person is suffering from the medical condition AIDS or ARC, whether real or imaginary.

"Employer" shall mean every person as defined herein, including any public service corporation and including the legal representative of any deceased employer, which has any natural person performing services for any form of remuneration.

"Housing services" shall mean services connected with the use or occupancy of a rental unit including but not limited to, utilities (including electricity, gas, heat, water and telephone), ordinary repairs or replacement, and maintenance, including painting. This term shall also include the provision of elevator service, laundry facilities and privileges, common recreational facilities, janitor service, resident manager, refuse removal, furnishings, food service, parking and any other benefits, privileges or facilities.

"Person" shall mean any natural person, firm, corporation, partnership or other organization, association or group of persons however organized.

"Rent" shall mean the consideration, including any bonus, benefits or gratuity, demanded or received by a landlord for or in connection with the use or occupancy of a rental unit, including but not limited to monies demanded or paid for the following: meals where required by the landlord as a condition of the tenancy, parking, furnishings, other housing services of any kind, subletting, or security deposits.

"Rental units" shall mean all dwelling units, efficiency dwelling units, guest rooms, and suites in the City of Riverside, rented or offered for rent for living or dwelling purposes, and land and buildings appurtenant thereto, and all housing services, privileges, furnishings and facilities supplied in connection with the use or occupancy thereof, including garage and parking facilities.

"Rental units" shall not include housing accommodations which a government unit, agency or authority owns, operates, or manages, and which are specifically exempted from municipal regulation by State or federal law or administrative regulation. (Ord. 5599 § 1, 1987)

### **Section 6.26.020      Employment.**

A. Unlawful employment practices. It shall be an unlawful employment practice for any employer, employment agency or labor organization or any agent or employee thereof to do or attempt to do any of the following:

1. Fail or refuse to hire, or to discharge any person, or otherwise to discriminate against any person with respect to compensation, terms, conditions or privileges of employment on the basis (in whole or in part) that such person has the medical condition AIDS or any condition related thereto.

2. Limit, segregate or classify employees or applicants for employment in any manner which would deprive or tend to deprive any person of employment opportunities, or adversely affect his or her employment status on the basis (in whole or in part) that such person has the medical condition AIDS or any condition related thereto.

3. Fail or refuse to refer for employment any person, or otherwise to discriminate against any person on the basis (in whole or in part) that such person has the medical condition AIDS or any condition related thereto.

4. Fail or refuse to include in its membership or to otherwise discriminate against any person; or to limit, segregate or classify its membership; or to classify or fail or refuse to refer for employment any person in any way which would deprive or tend to deprive such person of employment opportunities, or otherwise adversely affect her or his status as an employee or as an applicant for employment on the basis (in whole or in part) that such person has the medical condition AIDS or any condition related thereto.

5. Discriminate against any person in admission to, or employment in, any program established to provide apprenticeship or other training or retraining, including any on-the-job training program on the basis (in whole or in part) that such person has the medical condition AIDS or any condition related thereto.

B. Bona fide occupational qualification; burden of proof. Nothing contained in this section shall be deemed to prohibit selection, rejection or dismissal based upon a bona fide occupational qualification.

In any action brought under this chapter, if a party asserts that an otherwise unlawful discriminatory practice is justified as a bona fide occupational qualification, that party shall have the burden of proving that the discrimination is in fact a necessary result of a bona fide occupational qualification and that there exists no less discriminatory means of satisfying the occupational qualification.

C. Exceptions. It shall not be an unlawful discriminatory practice for an employer to observe the conditions of a bona fide employee benefit system, provided such systems or plans are not a subterfuge to evade the purposes of this chapter; provided further that no such system shall provide an excuse for failure to hire any person. (Ord. 5599 § 1, 1987)

**Section 6.26.030      Rental housing.**

A. Unlawful rental housing practices. It shall be unlawful for any person having a housing accommodation for rent or lease, or any authorized agent or employee of such person to do or attempt to do any of the following:

1. Refuse to rent or lease a rental unit, refuse to negotiate for the rental or lease of a rental unit, evict from a rental unit, or otherwise deny to or withhold a rental unit from any person on the basis (in whole or in part) that such person has the medical condition AIDS or any condition related thereto.

2. Rent or lease a rental unit on less favorable terms, conditions or privileges, or discriminate in the provision of housing services to any person on the basis (in whole or in part) that such person has the medical condition AIDS or any condition related thereto.

3. Represent to any person that a rental unit is not available for inspection, rental or lease when such rental unit is, in fact, available on the basis (in whole or in part) that such person has the medical condition AIDS or any condition related thereto.

4. Make, print, publish, or cause to be made, printed, or published any notice, statement, sign, advertisement, application, or contract with regard to a rental unit that indicates any limitation on or discrimination against any person on the basis (in whole or in part) that such person has the medical condition AIDS or any condition related thereto; or that indicates any preference for any person on the basis (in whole or in part) that such person does not have the medical condition AIDS or any condition related thereto.

B. Exceptions.

1. Owner-occupied. Nothing in this section shall be construed to apply to the rental or leasing of any housing unit in which the owner or lessor or any member of his or her family occupies the same living unit in common with the prospective tenant.

2. Effect on other laws. Nothing in this section shall be deemed to permit any rental or occupancy of any dwelling unit or commercial space otherwise prohibited by law. (Ord. 5599 § 1, 1987)

**Section 6.26.040      Business establishments.**

It shall be an unlawful business practice for any person to deny any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any business establishment including, but not limited to, medical, dental, health care and convalescent services of any kind whatsoever, on the basis (in whole or in part) that such person has the medical condition AIDS or any condition related thereto. (Ord. 5599 § 1, 1987)

**Section 6.26.050      City facilities and services.**

A. Unlawful service and facility practices. It shall be an unlawful practice for any person to deny any person the full and equal enjoyment of, or to impose different terms and conditions on the availability of any of the following:

1. Use of any City facility or City service on the basis (in whole or in part) that such person has the medical condition AIDS or any condition related thereto.

2. Any service, program or facility wholly or partially funded or otherwise supported by the City of Riverside, on the basis (in whole or in part) that such person has the medical condition AIDS or any condition related thereto. (Ord. 5599 § 1, 1987)

**Section 6.26.055      All contracts to include nondiscrimination provisions.**

All contracting agencies of the City of Riverside, or any department thereof, acting for or on behalf of the City, shall include in all contracts, franchises, leases, concessions or other agreements involving real or personal property or services to be rendered, hereafter negotiated, let, awarded, granted, renegotiated, extended or renewed, in any manner or as to any portion thereof, a provision obligating the contractor, franchisee, lessee, concessionaire, or other party

of said agreement not to discriminate on the ground or because of race, color, creed, national origin, ancestry, age, sex, sexual orientation, or disability including the medical condition AIDS or any condition related thereto. (Ord. 5599 § 1, 1987)

**Section 6.26.060 Educational institutions.**

A. Unlawful educational practices. It shall be an unlawful educational practice for any person to do any of the following:

1. To deny admission to, or to impose different terms or conditions on the admission of any person, on the basis (in whole or in part) that such person has the medical condition AIDS or any condition related thereto.

2. To deny any person the full and equal enjoyment of, or to impose different terms or conditions upon the availability of, any facility owned or operated by or any service or program offered by an educational institution on the basis (in whole or in part) that such person has the medical condition AIDS or any condition related thereto.

B. Exceptions. It shall not be an unlawful discriminatory practice for a religious or denominational institution to limit admission, or to give other preference, to applicants of the same religion. (Ord. 5599 § 1, 1987)

**Section 6.26.070 Advertising.**

It shall be unlawful for any person to make, print, publish, advertise or disseminate in any way any notice, statement or advertisement with respect to any of the acts mentioned in this chapter, which indicates an intent to engage in any unlawful practice as set forth in this chapter. (Ord. 5599 § 1, 1987)

**Section 6.26.080 Subterfuge.**

It shall be an unlawful discriminatory practice to do any of the acts mentioned in this chapter for any reason which would not have been asserted, wholly or partially, but for the fact that the person against whom such assertions are made has the medical condition AIDS or any condition related thereto. (Ord. 5599 § 1, 1987)

**Section 6.26.090 Association and retaliation.**

A. Association. It shall be unlawful for any person to do any of the acts prohibited by this chapter, as a result of the fact that a person associates with anyone who has AIDS or any condition related thereto covered by this chapter.

B. Retaliation. It shall be unlawful for any person to do any of the acts prohibited in this chapter or to retaliate against a person because a person:

1. Has opposed any act or practice made unlawful by this chapter;
2. Has supported this chapter and its enforcement;
3. Has testified, assisted or participated in any way in any investigation, proceeding, or litigation under this chapter. (Ord. 5599 § 1, 1987)

**Section 6.26.100 Liability.**

Any person who violates any of the provisions of this chapter or who aids in the violation of any provisions of this chapter shall be liable for, and the court shall award to the person whose rights are violated, actual damages, costs, and attorney's fees. In addition, the court may award punitive damages in a proper case. (Ord. 5599 § 1, 1987)

**Section 6.26.110 Enforcement.**

A. Civil Action. Any aggrieved person may enforce the provisions of this chapter by means of a civil action.

B. Injunction.

1. Any person who commits, or proposes to commit, an act in violation of this chapter may be enjoined therefrom by a court of competent jurisdiction.

2. Action for injunction under this subsection may be brought by any aggrieved person, by the City Attorney, or by any person or entity which will fairly and adequately represent the interests of the protected class.

C. Non-Exclusive. Nothing in this chapter shall preclude any aggrieved person from seeking any other remedy provided by law.

D. Exception. Notwithstanding any provision of this code to the contrary, no criminal penalties shall attach for any violation of the provisions of this chapter. (Ord. 5599 § 1, 1987)

**Section 6.26.120      Limitation on action.**

Actions under this chapter must be filed within one year of the alleged discriminatory acts. (Ord. 5599 § 1, 1987)

**Section 6.26.130      Severability.**

If any part or provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this chapter are severable. (Ord. 5599 § 1, 1987)

**Section 6.26.140      Exceptions.**

A. No part of this chapter shall apply to any bona fide religious organization.

B. No part of this chapter shall apply to any blood bank, blood donation facility, sperm bank, sperm donation facility, organ donation facility, surrogate mother or surrogate mother facility, or to any like service facility or establishment engaged in the exchange of products containing elements of blood or sperm.

C. No part of this chapter shall apply where a course of conduct is pursued which is necessary to protect the health or safety of the general public. (Ord. 5599 § 1, 1987)

**Section 6.26.150      Burden of proof.**

In any action brought under this chapter, if a party asserts that an otherwise unlawful discriminatory practice is justified as necessary to protect the health or safety of the general public, that party shall have the burden of proving that the discrimination is in fact a necessary result of a necessary course of conduct pursued to protect the health or safety of the general public; and that there exists no less discriminatory means of satisfying the necessary protection of the health or safety of the general public. (Ord. 5599 § 1, 1987)

**Section 6.26.160      Survival of cause of action.**

Any cause of action authorized hereunder shall survive the death of the person alleging discrimination and may be pursued in the name of the estate of the deceased person. (Ord. 5599 § 1, 1987)